IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

OP.No. 32883 of 1999(M)

PETITIONER:

RAGHUNATHA KURUP,
EDASSERIL HOUSE, VENMANI P.O.,
CHENGANNUR.

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS:
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1. **SECRETARY TO GOVERNMENT,**
   DEPARTMENT OF DEFENCE,
   CENTRAL GOVERNMENT SECRETARIAT
   NEW DELHI.

2. **C.S.O.,**
   A.D.P.A. (PENSION), NAVAL HEAD QUARTERS
   NEW DELHI.

BY ADV. SRI.B.RAMACHANDRAN, ADDL.CGSC
SRI.P.R.RAMACHANDRA MENON, ADDL.CGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO. 55559/1999 IN OP. NO.32883/1999

DISMISSED

20/06/2007 **SD/- T.R.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE REPRESENTATION DT. 28.3.98.

RESPONDENTS EXHIBITS

EXT.R2(a):- COPY OF THE MEDICAL BOARD PROCEEDINGS INVALIDING THE PETITIONER FROM SERVICE DT. 20.6.1975.

EXT.R2(b):- COPY OF THE LETTER DT. 6.7.76.

EXT. RE(c):- COPY OF THE LETTER DT. 13.7.76.

EXT.R2(d):- COPY OF THE LETTER DT. 23.3.82.

EXT.R2(e):- COPY OF THE LETTER DT. 17.4.82.

EXT.R2(f):- COPY OF THE LETTER DT. 16.9.85.

/TRUE COPY/

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T.R. RAMACHANDRAN NAIR, J.

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O.P. No. 32883 OF 1999 M
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Dated this the 20th June, 2007

J U D G M E N T

The petitioner approached this Court complaining about the inaction on the part of the respondents to comply with his request made in Ext. P1 to provide him the medical treatment records relating to him. The petitioner was enrolled in the Indian Navy as an Engine Room Artificer on 28-1-1967. He was referred to the Army Base Hospital, Calcutta in the year 1975 for certain disease and according to him he was treated for certain mental problems also. Finally, he was invalidated out of service on 28-11-1975.

2. The claim of the petitioner is for grant of disability pension as according to him, he was invalidated out of service which is attributable to the conditions of the service itself. The petitioner sought for the medical treatment records to enable him to challenge the decision of the competent authority.

3. The respondents have filed a detailed counter affidavit in the matter. Ext. R2(a) is the Medical Board proceedings invalidating the petitioner from

service. It contains the details of the treatment given to him. Ext. R2(b) is the proceedings by which the claim for pension was rejected finding that no disability pension is admissible under the rules. Even though the petitioner was communicated about the decision he did not prefer an appeal at that time. It is admitted in the counter affidavit that he had made a representation on 23-12-1981 which was not acted upon as it is highly belated due to the lapse of six years.

4. The case in question is one where admittedly the petitioner was suffering from certain mental disorders. Purely because of the said reason he was invalidated out of service from the Navy. The question is whether he is entitled for disability pension.

5. Even going by the grounds stated in the writ petition the delay on his part occurred because of the mental disorders he was suffering and that there was nobody else in the family to take upon his cause. Hence, the authorities were not right in not considering his representation as an appeal. In the light of the above, there will be a direction to the respondents to consider the representation submitted by

petitioner, dated 23-12-1981 on its merits by treating it as an appeal. Ext. R2(a) gives the details of the history of his illness, etc, and therefore it may not be necessary to furnish a fresh set of documents to him. Appropriate orders will be passed within a period of six months from today and the same will also be communicated to the petitioner.

T.R. RAMACHANDRAN NAIR
JUDGE

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